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The preliminary injunction hearing is adjourned without date. The parties are directed to contact the assigned magistrate judge for issues relating to discovery. The parties are also encouraged to schedule a settlement conference with the magistrate judge. So Ordered.

Hon. Andrew L. Carter, Jr.
United States District Court for the Southern District of New York
500 Pearl Street
New York, NY 10007

April 11, 2012
Carter
4-16-12

Re: Preston v. Absecon Mills, Inc. (12 CV 1397) (ALC)(JLC)

Dear Judge Carter:

I am writing on behalf of plaintiff in the above-entitled action. When we appeared in Court on March 9, 2012 for the hearing on plaintiff's application for a temporary restraining order, May 22, 2012 was set as the date for a preliminary injunction hearing and the parties were authorized to conduct expedited discovery in the interim.

Plaintiff has now concluded that the issues in this case are more suitable for resolution on summary judgment than in the context of a preliminary injunction hearing. Accordingly, plaintiff is withdrawing his application for a preliminary injunction. This will also avoid the need for expedited discovery. Since the parties no longer have to prepare for a preliminary injunction hearing next month, discovery can proceed on a normal track.

Plaintiff remains interested in trying to resolve this matter and would welcome the Court's involvement in the process.

Very truly yours,

Fran M. Jacobs

Fran M. Jacobs

cc: Jay Safer, Esq. (by e-mail)

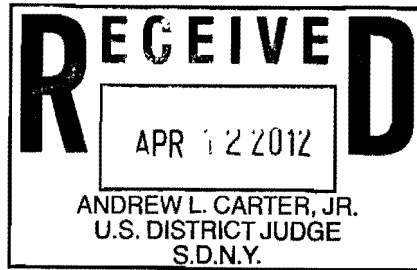
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April 12, 2012

Honorable Andrew L. Carter, Jr.
United States District Court
Southern District of New York
500 Pearl Street, Room 725
New York, NY 10007

Re: Daniel Preston v. Absecon Mills, Inc. 12-CV-1393 (ALC) (JLC)

Dear Judge Carter:

Late yesterday, we received the letter from Plaintiff's counsel, Ms. Jacobs, informing the Court that Plaintiff no longer seeks a preliminary injunction in this case. We write this letter in response.

We believe Plaintiff's letter confirms all that we asserted during the hearing before Your Honor on Plaintiff's Order to Show Cause, namely, that there is no basis for Plaintiff's position that it was entitled to injunctive relief or it would suffer irreparable harm. As to some possible, future summary judgment motion by Plaintiff, if any, Absecon does not believe that Plaintiff would be entitled to summary judgment on the issues in this case.

Ms. Jacobs' letter suggests that having withdrawn Plaintiff's request for a Preliminary Injunction, Plaintiff's letter essentially moots this Court's Order for expedited discovery. However, Absecon has taken considerable time and expense to meet its obligations under this Court's Order for expedited discovery in preparation of the previously-scheduled May 22, 2012 hearing. To date, Absecon has taken the following initiatives in accordance with Your Honor's expedited discovery Order:

1. Served a notice of deposition on Plaintiff Daniel Preston scheduled to take place on April 25, 2012;
2. Served requests for production of documents and things, interrogatories and requests to admit on Plaintiff Daniel Preston, the responses to which are due to counsel for Absecon on April 13, 2012;

Hon. Andrew L. Carter, Jr.
April 12, 2012
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3. Served third party subpoenas on Dennis Walsh for his deposition, to take place on April 27, 2012, and document production, the responses to which are due to counsel for Absecon on April 23, 2012; and
4. Served third party subpoenas on Cacao Biotechnologies, LLC for a 30(b)(6) deposition, to take place on May 11, 2012, and document production, the responses to which are due to counsel for Absecon on May 3, 2012.

In contrast, Plaintiff has not served any discovery of any kind on Absecon. It is noteworthy that before yesterday's letter, we sent requests to Ms. Jacobs via e-mail to confirm that Plaintiff would answer and provide documents in response to the discovery requests that were served; we received no response to these requests. Yesterday, a little more than a day before our discovery would be due, we received the impression from counsel's letter that Plaintiff does not intend to provide the responses and documents and things we requested under this Court's expedited discovery Order.

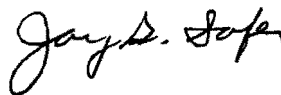
We believe Plaintiff is obligated to respond to and provide documents requested by our discovery requests on the dates noticed, but we are not opposed to considering a reasonable extension if Plaintiff were to confirm with us new dates for such discovery. However, Absecon does not want to forfeit its priority to receive responses and documents to the requests it has properly served and that are still valid. In the event of changes in the currently noticed dates for discovery, we need to receive documents and responses due from those individuals and entities whose depositions we plan to take in advance of their scheduled depositions, as is presently the case for our current discovery requests.

Absecon is entitled to that discovery as it seeks to confirm what it has told this Court and refute what Plaintiff has stated. This discovery also will confirm Absecon's counterclaims against Daniel Preston which Absecon served with its Answer and intends to vigorously pursue in this matter.

Finally, Absecon remains open and willing to try and resolve the matter through settlement.

We thank the Court for its time in considering our correspondence on these matters.

Respectfully Submitted,



Jay G. Safer

cc: Fran M. Jacobs (via e-mail)